

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Jeremy Shaw Sweat,)	
)	
Plaintiff,)	Civil Action No.: 2:19-cv-00307-JMC
)	
v.)	ORDER
)	
)	
Brian Stirling and Michael McCall,)	
)	
Defendants.)	
_____)	

This matter is before the court for review of the Magistrate Judge’s Report and Recommendation (“Report”) filed on April 10, 2020. (ECF No. 53.) The Report addresses Plaintiff Jeremy Sweat’s suit under 42 U.S.C. § 1983 and recommends that the court grant Defendants’ Motion for Summary Judgment (ECF No. 46) and dismiss the case with prejudice. For the reasons stated herein, the court **ACCEPTS** the Report, **GRANTS** Defendants’ Motion for Summary Judgment (ECF No. 46), and **DISMISSES** the case with prejudice.

I. FACTUAL AND PROCEDURAL BACKGROUND

The Report sets forth the relevant facts and legal standards which this court incorporates herein without a full recitation. (ECF No. 53.) As brief background, on February 4, 2019, Plaintiff, proceeding *pro se*, filed his Complaint, alleging constitutional violations pursuant to 42 U.S.C. § 1983. (ECF No. 1.) Specifically, in his Complaint, Plaintiff alleges that Defendants have “den[ied] [him] a right to practice and study [his] religion and denying [him] adequate amounts of food.” (*Id.* at 5.) In terms of relief, Plaintiff desires the court to “make SCDC change their policy regarding [him] to not be able to receive catalogs in lock up and to make SCDC start feeding us better.” (*Id.* at 6.)

On December 16, 2019, Defendants filed their Motion for Summary Judgment. (ECF No. 46.) On December 17, 2019, the Magistrate Judge issued a *Roseboro* Order (ECF No. 48), which apprised Plaintiff of the procedures surrounding summary judgment. *See Roseboro v. Garrison*, 528 F.2d 309, 310 (4th Cir. 1975) (requiring the court to provide an explanation of the dismissal and summary judgment procedures to *pro se* litigants). Defendant failed to respond to Defendant's Motion for Summary Judgment.

On April 10, 2020, the Magistrate Judge issued a Report. (ECF No. 53.) The Report found that there was not a genuine issue of material fact in which Plaintiff could survive Defendants' Motion. (*Id.* at 7-9.) The Report ultimately recommended that the court grant Defendants' Motion for Summary Judgment (ECF No. 46). (*Id.* at 7.)

II. STANDARD OF REVIEW

The Magistrate Judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge only makes a recommendation to this court, and the recommendation has no presumptive weight. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The responsibility to make a final determination remains with the court. *Id.* at 271. As such, the court is charged with making *de novo* determinations of those portions of the Report and Recommendation to which specific objections are made. *See* 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). Thus, the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

III. DISCUSSION

The parties were apprised of their opportunity to file objections to the Report on April 10, 2020. (ECF No. 53.) Objections to the Report were due by April 24, 2020. (ECF No. 53.) However,

objections were due by April 27, 2020, if a party was served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (*Id.*) Neither party filed objections to the report. In the absence of timely objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Instead, the court must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984). After a thorough and careful review of the record, the court finds the Magistrate Judge's Report provides an accurate summary of the facts and law in the instant case. (ECF No. 53.) Because there are no objections and no error, the court adopts the Report herein. *Camby*, 718 F.2d at 199.

IV. CONCLUSION

After a thorough review of the Report and the record in this case, the court **ACCEPTS** the Magistrate Judge's Report and Recommendation (ECF No. 53) and incorporates it herein. Therefore, the court **GRANTS** Defendants' Motion for Summary Judgment (ECF No. 46) and **DISMISSES** the case with prejudice.

IT IS SO ORDERED.



United States District Judge

April 29, 2020
Columbia, South Carolina